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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WILLIAM J. BERRY, JR., CYNTHIA
FALLS, and SHANE KAUFMANN,

Plaintiff(s),

vs.

DESERT PALACE, INC., d/b/a CAESARS
PALACE, DOES I through x, et al.

Defendant(s).

Case No. 2:17-cv-00019-APG-BNW

**STIPULATION AND
ORDER APPROVING
SUPPLEMENTAL BRIEFING ON
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT
(ECF NO. 99)**

(First Request)

Plaintiffs WILLIAM J. BERRY, JR., CYNTHIA FALLS, and SHANE KAUFMANN and Defendant DESERT PALACE, INC. d/b/a CAESARS PALACE, by and through their respective counsel of record, HEREBY STIPULATE, and ask the district court to approve this Stipulation and enter an Order, that (i) plaintiffs may supplement their Opposition to Defendant's Motion for Summary

1 Judgment [ECF No. 102] (the “Opposition”) to account for newly-discovered documents produced by
2 Caesars on May 31, 2019; and (ii) defendant may file a response to plaintiffs’ supplemental
3 submission. In support of this Stipulation, the parties state as follows:

4 1. The plaintiffs filed this lawsuit on January 3, 2017 [ECF No. 1].

5 2. Discovery in this case commenced on May 8, 2017 and ended on October 21, 2018.

6 3. During the course of discovery, plaintiffs propounded, and defendant responded to, 15
7 sets of (“RFP”) of documents, setting forth 101 separate document requests.

8 4. Plaintiffs’ request to produce numbers 57, 64, and 65 in plaintiffs’ 9th and 10th sets of
9 RFP sought, at least in part, copies of a Caesars human resources internal investigation file related to
10 complaints investigated in 2014 (the “2014 file”).

11 5. Defendant searched for and was unable to locate the 2014 file during discovery.

12 6. On January 9, 2019, defendant filed its Motion for Summary Judgment [ECF No. 99].

13 7. Plaintiffs filed their Opposition on February 14, 2019. [ECF No. 102].

14 8. On March 14, 2019, defendant filed its Reply in Support of Motion for Summary
15 Judgment [ECF No. 112].

16 9. To date, defendant’s Motion for Summary Judgment (ECF No. 99) is still pending
17 before this Court.

18 10. While awaiting a ruling on defendant’s Motion for Summary Judgment, on May 19,
19 2019, Caesars human resources personnel located the hardcopy 2014 file in a three-ring binder that
20 they were unable to find during discovery.

21 11. Defendant’s counsel believes they acted diligently upon learning the 2014 file had been
22 located, and produced the 2014 file to plaintiffs on May 31, 2019, reproducing the documents on June
23 18, 2019, without the “Confidentiality” designation which had been challenged by plaintiffs. On July
24 10, 2019, in response to plaintiffs’ request, defendant also supplemented its production with a copy of
25 the outside labeling of the spine of the three-ring binder that held the 2014 file.

26 12. In light of these newly discovered documents, plaintiffs and defendant agree, subject
27 to the Court’s approval, that plaintiffs may supplement their Opposition to account for the 2014 file.

28 13. Plaintiffs’ supplemental brief shall be limited to six (6) pages in length and must be

1 filed with the Court within sixteen (16) calendar days of the date the district court enters this
2 Stipulation as an Order.

3 14. The parties also agree that defendant may file a response to plaintiffs' supplemental
4 submission and that defendant's response shall be limited to six (6) pages in length and must be filed
5 with the Court within sixteen calendar (16) days from the date of plaintiffs' supplemental submission.

6 15. This is the parties' first stipulation to allow supplemental briefing in relation to
7 defendant's Motion for Summary Judgment and plaintiffs' Opposition. This stipulation is made in
8 good faith and to allow plaintiffs an opportunity to address the newly discovered 2014 file in their
9 Opposition, which was not available to plaintiffs when they filed their Opposition to Defendant's
10 Motion for Summary Judgment, and to allow defendant to respond.

11 16. This stipulation is not for the purpose of causing any undue delay, and the parties agree
12 that good cause therefore exists to allow for this limited supplemental briefing.

13 IT IS SO STIPULATED.

14 Dated: August 6, 2019

Dated: August 6, 2019

15 Respectfully submitted,

Respectfully submitted,

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18 /s/ Kathleen J. England, Esq.
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DESERT PALACE, INC.
d/b/a CAESARS PALACE

24 **ORDER**

25 IT IS SO ORDERED.

26
27 
28 UNITED STATES DISTRICT JUDGE
Dated: August 6, 2019.